14 MONITORING RESULTS

14.1 Administrative Review of Certificates of Analysis

14.1.1 Administrative review is the proofreading examination of the Certificate of Analysis. The administrative reviewer will look for such things as typographical or grammatical errors, misspellings and incorrect addresses/names.

14.1.2 All completed and signed CoAs will be administratively reviewed prior to release.

14.1.3 The administrative reviewer will be an FLSVI or higher, preferably from the same Section as the examiner of record.

14.1.4 If there are no errors, the reviewer's initials will appear on the file copy of the CoA in the space underneath the typist's initials near the left margin.

14.1.5 The technical reviewer for those files subject to technical review should also be the administrative reviewer.

14.1.6 Corrective action will be handled in accordance with Section 8, "Discrepancies and Corrective Actions".

14.2 Technical Review of Case Files

14.2.1 Prior to mailing the CoA, a review of the case file, particularly of the examination documentation in the file, will be conducted on 20 cases (or all cases completed, which ever is fewer) for each examiner on a monthly basis. The reviewer will be an individual who has expertise gained through documented training and experience in the discipline reviewed. The Section Chief or Supervisor must conduct at least two of the reviews (either pre-or post-mailing). If the Section Chief/Supervisor does not possess the necessary expertise, he/she will delegate the formal review to an appropriate examiner, but must still perform a detailed review. To meet the FBI DNA Quality Assurance Standards for Forensic DNA Testing Laboratories requirements, a technical review of all completed DNA case files will be performed.

14.2.2 Reviews will be performed after the CoA has been signed by the examiner of record and within three (3) workdays of receipt by the reviewer.

14.2.2.1 The Technical Review Form (Appendix C-4) must be used to document a discrepancy.

14.2.2.2 Cases which satisfy all technical review criteria may be documented on the Technical Review Summary Form (Appendix C-5). The Technical Review Form may also be used to document compliance in instances involving no more than a small number of cases.

14.2.3 Exceptions to this policy may only be granted by the appropriate Laboratory Director when a situation exists which precludes a technical review before release of the CoA. In this situation, the technical review will be conducted as soon as possible after the release of the CoA.

14.2.4 Technical Review/Summary Forms will be forwarded to the appropriate Laboratory Director for review. These forms will be placed in and become part of the Technical Review File, which will be maintained by each Laboratory Director as documentation of compliance with this section.

14.2.5 Any Technical Review Form that documents a discrepancy will be discussed with the examiner. Corrective action will be handled in accordance with Section 8, "Discrepancies and Corrective Actions."

14.3 Technical Review of Convicted Offender Sample Analysis

14.3.1 Prior to uploading any DNA profile from a convicted offender sample into the convicted offender DNA database, a review of all supporting documentation will be performed. The technical aspects of the review will be conducted by an individual who has expertise gained through documented training and experience.

14.3.2 The review of the data generated by DFS will be performed using the DNA Databank STR Peer Review Form (Appendix C-6). The review of the data generated by a contract laboratory will be performed using the Contractor Review Forms (Appendix C-7).

14.3.3 The DNA Databank STR Peer/Contractor Review Forms will be placed in and become part of the convicted offender sample analysis review file, which will be maintained as documentation of compliance with this section.

14.4 Testimony Monitoring

14.4.1 To ensure that examiners' testimony is effective, and does not compromise or negate a scientifically defensible and legally admissible CoA and examination, the Department has established a program of testimony monitoring.

14.4.2 Each examiner's testimony will be monitored at least once each calendar year in which they testify. The monitoring may be performed in one of three ways:

14.4.2.1 In-Court and Deposition Observation

The preferred method for testimony monitoring is personal observation of an examiner's testimony by another examiner. Directors, the Department Counsel, the QAC, Section Chiefs, Supervisors and examiners may observe the actual testimony of an examiner, even if the examiner is not in their Section. However, no subordinate level position can observe the testimony of a superior level position. Forensic Scientist II and III and non-supervisory Forensic Scientist IV, V and VI positions are considered equivalent for this purpose. During or at the conclusion of the testimony, the observer will complete an Expert Testimony Evaluation (ETE) form (Appendix C-8), and review it with the examiner in a timely manner.

14.4.2.2 Review of Transcripts

If an examiner testifies but is not observed, the appropriate Laboratory Director will obtain a transcript of the examiner's testimony. A Director, Section Chief, or Supervisor, as appropriate, will review the transcript and complete an ETE form. The ETE form and the transcript will be reviewed with the examiner in a timely manner.

14.4.2.3 Input from Officers of the Court

If an examiner testifies but can neither be observed nor can the transcript be obtained, a Director, Section Chief, or Supervisor, as appropriate, may complete an ETE in discussion with the applicable judge or attorney. This method may only be used because of extenuating circumstances such as last minute illness of a scheduled observer or unexpectedly closed court proceedings, and only with the approval of a Director. The ETE form will be reviewed with the examiner in a timely manner.

14.4.3 Supervisors and Section Chiefs will consider the following types of situations in determining the need and frequency for personally observing testimony:

- Complaints from attorneys or judges (Section 7, "Complaints")
- Examiners who are newly qualified or require improvement in this aspect of their work.

14.4.4 If an examiner does not testify in a given calendar year, their immediate supervisor will document the reason on an ETE form by January 31st of the following year.

14.4.5 ETE forms will be forwarded to the appropriate Laboratory Director who will review the form and forward a copy to the QAC. The original will be maintained by the laboratory. The QAC will maintain a database to aid in the documentation of compliance with these requirements. The QAC shall provide a quarterly printout of the appropriate database entries to each Laboratory Director. The QAC will also provide a report on the Department Testimony Monitoring Program in memorandum format at least quarterly to the Director of Technical Services.

14.5 Proficiency Testing

14.5.1 The primary purpose of the Department's proficiency testing (PT) program is to conduct regular, objective assessments of the staff's ability to perform examinations in a scientifically defensible and legally admissible manner and to follow Department and Section policies and procedures. This is generally accomplished by using tests with previously verified test results, against which an individual's test results are assessed. Also, because PTs are performed, as much as possible, in the same manner as examinations on casework, the program assesses compliance with administrative policies and procedures as well.

14.5.2 The Department will adhere to the proficiency testing criteria contained in the current editions of the following documents, as applicable:

- ASCLD/LAB® Accreditation Manual
- FBI Quality Assurance Standards for Forensic DNA Testing Laboratories
- FBI Quality Assurance Standards for Convicted Offender DNA Databank Laboratories

14.5.3 Personnel who perform analyses on casework in multiple subdisciplines will be proficiency tested annually in each of the subdisciplines as identified by ASCLD/LAB®.

14.5.4 There are three types of PTs presently available for use by the Department:

14.5.4.1 External Tests

14.5.4.1.1 An external test is one received from outside the Department, known by the examiner being tested to be a test, and in which the expected results, at least initially, are unknown to anyone in the Department.

14.5.4.1.2 Some external tests, e.g., those for Firearms & Toolmarks and Latent Fingerprints, are taken independently by multiple examiners in succession. One or more of those examiners will have completed the test by the time the expected results become known to the Department.

14.5.4.2 Internal Tests

14.5.4.2.1 An internal test is one produced by the Department, known by the examiner being tested to be a test, and in which the expected results are unknown to that examiner.

14.5.4.3 Blind Tests

14.5.4.3.1 A blind test is one received from outside the Department, not known by the Department to be a test, and in which the expected results are unknown to anyone in the Department. The Department does not conduct blind tests at this time.

14.5.4.3.2 Reexamination of evidence is a form of blind test in which the original examiner does not initially know he/she is being tested. This practice has the advantage of assessing all

aspects of the examination being repeated, from sample receipt through return. The disadvantage, however, is not having known, or well-established expected, results.

14.5.5 Program Management and Process

14.5.5.1 The QAC will track and summarize PT information both in files and in a database to document compliance with these requirements. The QAC shall provide a quarterly printout of the appropriate database entries to each Laboratory Director and the Director of Technical Services.

14.5.5.2 The QAC will meet with each Section Chief twice each calendar year to address the Section's tests for the upcoming year. They will discuss and decide on test samples to be obtained and/or prepared, and develop a sample distribution plan and schedule. Copies of the sample distribution plan will be furnished to the Laboratory Directors and the Director of Technical Services.

14.5.5.3 External Tests

14.5.5.3.1 On receipt of an external test, the QAC will open and inspect the test, then initiate a tracking sheet, test file, and database record to document the test's passage through the Department.

14.5.5.3.2 The QAC will reference the test distribution plan and schedule of the appropriate Section and assign the test accordingly.

14.5.5.3.3 The QAC will forward the test and accompanying paperwork to the appropriate individual, along with an assignment memo specifying the date by which the test must be completed and the disposition of the test samples.

14.5.5.3.4 The assigned individual will perform the test and forward the results in the prescribed format, together with all supporting documentation, to the QAC on or before the due date.

14.5.5.3.5 The QAC will review the individual's results, and supporting documentation as necessary, and release and forward them to the test provider.

14.5.5.3.6 When the test provider supplies the expected results to the QAC, that information shall be forwarded to the appropriate Supervisor (or regional independent), Section Chief and/or Laboratory Director.

14.5.5.3.7 The QAC shall compare the individual's results to the expected results, review the supporting documentation, and forward the results and documentation to the Section Chief, as necessary, for review.

14.5.5.3.8 The QAC shall discuss the outcome of the review(s) with the Section Chief.

14.5.5.3.9 The QAC shall notify the individual in writing of his/her performance on the test.

14.5.5.4 Internal Tests

14.5.5.4.1 Near the beginning of a month in which an individual is scheduled to receive an internal test, the QAC will request that the appropriate Section Chief forward a test, with the expected results, to the QAC.

14.5.5.4.2 On receipt of the test, the QAC will initiate its tracking sheet, test file, and database record, and forward the test, accompanying paperwork, and assignment memo to the individual.

14.5.5.4.3 The assigned individual will perform the test and forward the results and supporting documentation to the QAC on or before the due date.

14.5.5.4.4 The QAC will review the individual's results and supporting documentation, compare the results to the expected results, and forward the results and documentation to the Section Chief, as necessary, for review.

14.5.5.4.5 The QAC shall discuss the outcome of the review(s) with the Section Chief.

14.5.5.4.6 The QAC shall notify the individual in writing of his/her performance on the test.

14.5.5.5 Blind Tests

14.5.5.5.1 A reexamination will require coordination between the QAC, the appropriate Section Chief, and the appropriate Laboratory Director(s). They will determine the individual whose case will be reexamined, the case to be reexamined, and the individual who will perform the reexamination.

14.5.5.5.2 All documentation relating to the reexamination will be placed in the case file noting that the evidence was subjected to a reexamination as a PT. The QAC will maintain a copy of the reexamination documentation in the PT file.

14.5.5.5.3 The Laboratory Director "in possession of" the evidence shall arrange for delivery of the evidence to the assigned individual. The QAC will initiate the test's tracking sheet, test file, and database record, and forward the appropriate paperwork and assignment memo to the examiner.

14.5.5.5.4 The reexamination will be performed as though it was the initial examination of the evidence. Information about the initial examination and its results will not be made available to the individual performing the reexamination.

14.5.5.5.5 The assigned individual will perform the test and forward the results and supporting documentation to the QAC on or before the due date.

14.5.5.5.6 The QAC will review and compare both original and re-examination results and corresponding supporting documentation, and forward the results and documentation to the Section Chief, as necessary, for review.

14.5.5.5.7 The QAC shall discuss the outcome of the review(s) with the Section Chief.

14.5.5.5.8 The QAC shall notify both examiners in writing of the test outcome.

14.5.6 Practices

14.5.6.1 PTs will be performed in the same manner as casework. This includes use of the appropriate procedures, generation of examination documentation, and, when prescribed, the involvement of other personnel, such as a second sizer in DNA analysis, a second examiner's verification of latent print matches, or the assistance of scientific support staff. Also, all PT files are to undergo administrative and technical review.

14.5.6.2 Involvement of other personnel, when not prescribed, is not prohibited, but must be done in such a manner as to not compromise the primary aim of the test, which is the assessment of the individual examiner. This does not preclude an examiner from soliciting opinions concerning the test samples as when examining actual evidence. However, PTs are generally straightforward; any test on which an

examiner requires more than minor input from another examiner should be brought to the attention of the QAC. Also, because of the restriction in ¶ 14.5.6.3, below, such input may not be obtained from another examiner who has taken, is taking, or may take the same test.

14.5.6.3 Any individual involved in the performance of another's test, e.g., as a second sizer, verifier or reviewer, generally may not take the same test. Such an individual may be involved at multiple points in the performance of a test, e.g., may verify and review a single test, and may second size, verify, review, etc., the same test from multiple individuals taking that test.

14.5.6.4 One obvious difference between a test and a case is the absence of a CoA for a test. For external tests, the CoA is largely replaced by the test provider's reporting forms. For internal tests, a reporting form to be completed by the examiner performing the test will be prepared by the appropriate Section Chief in conjunction with the QAC.

14.5.6.5 Internal tests shall be prepared by the appropriate Section Chief or his/her designee in conjunction with the QAC. The preparation shall be documented in sufficient detail to allow for preparation of an identical test, if necessary. An examiner other than the one who prepared the test shall perform the validation.

14.5.6.6 A toxicology test will be generally assigned to the Toxicologist at the laboratory receiving the test to best mimic the way cases are managed. If an individual in Toxicology does not perform a particular type of test during the mandatory performance period because of the nature of the samples, then another test would be assigned directly to that individual.

14.5.7 Documentation

14.5.7.1 The QAC will maintain all original PT files.

14.5.7.2 PT files shall contain the following:

- Tracking sheets
- Appropriate originals or copies of documentation received from external test providers, and records of distribution of such documentation
- Preparation and validation records for internal tests
- Copies of assignment memos
- Copies of results forwarded to external test providers (or originals if results were forwarded by fax)
- Proof of delivery to external providers
- Completed Department reporting forms for internal tests
- Supporting documentation
- Records of notification of individuals of test outcomes
- Corrective action records, as appropriate.

14.5.7.3 Each regional laboratory is limited to maintaining only the following documentation:

- Copy of the QAC's assignment memorandum
- Copy of each individual's memorandum/e-mail that returns his/her test results to the QAC
- Copy of the QAC's memorandum/e-mail to an individual reporting the outcome of his/her performance
- Copy of any corrective action documentation

14.5.8 Corrective Action

- Discrepancies identified at any point in testing will be handled in accordance with Section 8, "Discrepancies and Corrective Actions", of this manual.

► End